

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:	:	Chapter 11
	:	
Circuit City Stores, Inc., et al.	:	Case No. 08-35653 (KRH)
	:	
Debtors.	:	

**LIMITED OBJECTION TO DEBTORS' MOTION FOR ORDERS UNDER
BANKRUPTCY CODE SECTIONS 105, 363 AND 365 (I) APPROVING BIDDING
AND AUCTION PROCUEURES FOR SALE OF UNEXPIRED
NONRESIDENTIAL REAL PROPERTY LEASES, (II) SETTING SALE
HEARING DATES AND (III) AUTHORIZING AND APPROVING (A) SALE OF
CERTAIN UNEXPIRED NONRESIDENTIAL REAL PROPERTY LEASES FREE
AND CLEAR OF ALL INTERETS (B) ASSUMTPION AND ASSIGNMENT OF
CERTAIN UNEXPIRED NONRESIDENTIAL REAL PROPERTY
LEASES AND (C) RELEASE REJECTION PROCEDURES**

Ray Mucci's Inc., Route 146 Millbury, LLC, Interstate Augusta Properties, LLC,
E&A Northeast Limited Partnership, and NPP Development (the "Objecting Landlords"
or the "Landlords") by and through their counsel, respectfully submit this limited
objection to Debtors' Motion for Orders Under Bankruptcy Code Sections 105, 363, and
365 (I) Approving Bidding And Auction Procedures for Sale of Unexpired
Nonresidential Real Property Leases, (II) Setting Sale Hearing Dates and (III)

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Authorizing and Approving (A) Sale of Certain Unexpired Nonresidential Real Property Leases Free and Clear of All Interest (B) Assumption and Assignment of Certain Unexpired Nonresidential Real Property Leases and (C) Release Rejection Procedures (the "Motion").

1. The Motion is objectionable for the following reasons:
 - a. The requested relief improperly shifts to the Landlords the burden to make reasonable request for adequate assurance information. Section 365 of the Bankruptcy Code unequivocally requires that the debtor "provide adequate assurance." The bidder or Debtor should provide the adequate assurance information to all landlords without the requirement that a landlord request such information.
 - b. The Motion seeks abandonment without any conditions. Any order authorizing the abandonment of personal property upon vacating the leased premises should provide, consistent with current sale guidelines, that the premises will be left in broom clean condition, including leaving the premises in good condition.
 - c. The Motion fails to provide any clarity as to which "March" leases will be slated for which auctions/sale hearings, and when Landlords will have notice of the applicable auction/sale hearing dates.
 - d. There is insufficient time, or at a minimum it is unclear whether there will be sufficient time, for the Landlords to evaluate prospective tenants. Landlords should have at least 10 days from the date on which they receive notice of the bidder and adequate assurance information in which to object to the proposed assignment.
 - e. A date certain should be set by which cure objections, if not resolved at the sale hearing, will be heard. The Landlords propose that a hearing date not later than 7 days after the applicable sale hearing be set aside to resolve any outstanding cure objections.
 - f. The Motion does not explain how or when Landlords will be notified that no bids were received with respect to their lease and in the case of the lease for which there is no bid and no early rejection, does not provide sufficient notice of "automatic" rejection

- g. The request for waiver of the stay under *Bankruptcy Rules* 6004 and 6005 is premature and should be deferred until the sale hearing(s).

2. The Objecting Landlords also join in the objections filed by other landlords to the Motion to the extent they are not inconsistent with this objection.

WHEREFORE, the Objecting Landlords respectfully requests that any final order granting the Motion be modified pursuant to the terms of this objection, or that the Motion be denied in its entirety, and that the Objecting Landlords be granted such other and further relief as the Court may deem just and proper.

Dated: February 11, 2009

/s/ William A. Gray

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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of February, 2009, a true and accurate copy of the foregoing was electronically filed with the Clerk of the Bankruptcy Court for the Eastern District of Virginia, Richmond Division, using the CM/ECF system, which thereby caused the above to be served electronically on all registered users of the ECF system that have filed notices of appearance in this matter, and was mailed, by U.S. Mail, first class, postage prepaid, to all persons on the below Service List:

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